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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Robert Burgmeier, Richard Goodin, Joseph Delaney Jr, Larry Peterson
Application No.:	10/772477
Filed:	February 5, 2004
For:	MEDICAL DEVICE WITH VARYING PHYSICAL PROPERTIES AND METHOD FOR FORMING SAME
Group Art Unit:	1772

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2H-11462-US01

TRANSMITTAL LETTER

1. In regard to the above-identified application, in addition to this 2 page transmittal letter, we are submitting the attached:
4 page Supplemental Information Disclosure Statement; 1 page List of References; 3 Foreign References and Postcard.
2. With respect to fees:
 - No additional fee is required.
 - Attached is check(s) in the amount of \$
 - Charge any fee deficiency to our Deposit Account No. 22-0350.
3. **CONDITIONAL PETITION FOR EXTENSION OF TIME**
This conditional petition is being filed along with the papers identified in Item 1 above and provides for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time or for a petition and fee for any other matter petitionable to the Commissioner as required. If any extension of time for the accompanying response is required or if a petition for any other matter is required, by petitioner, Applicant requests that this be considered a petition therefor.
4. Notwithstanding paragraph 2 above, if any additional fees associated with this communication are required and have not otherwise been paid, including any fee associated with the Conditional Petition for Extension of Time, or any request in the accompanying papers for action which requires a fee as a petition to the Commissioner, please charge the additional fees to Deposit Account No. 22-0350.

Please charge any additional fees or credit overpayment associated with this communication to the Deposit Account No. 22-0350.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: May 25, 2005

By: 

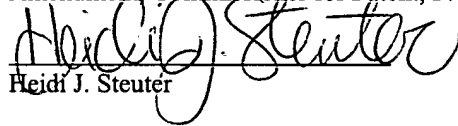
Walter J. Steinkraus

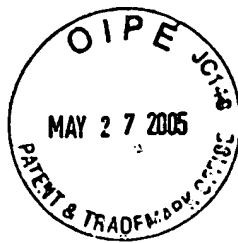
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Certificate Under 37 CFR 1.8: I hereby certify that this Transmittal Letter and the paper(s) as described herein, are being deposited in the U.S. Postal Service, as FIRST CLASS MAIL, addressed to Mail Stop Amendment, Commissioner for Patent, P.O. Box 1450, Alexandria, VA 22313-1450, on May 25, 2005.


Heidi J. Steuter



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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Listed below or on an attached form listing the cited references and/or a copy of a PTO-892 form is information known to applicant(s). A copy of each listed foreign patent and each listed publication other than U.S. patents and U.S. patent application publications is being submitted herewith, along with a concise explanation of information in a foreign language, if any, pursuant to 37 C.F.R. §1.97-1.98, *except that* U.S. patents and U.S. published applications from which priority is claimed under 35 U.S.C. §120, and documents cited in such priority applications, may be omitted from the enclosures pursuant to 37 C.F.R. 1.98(d). Applicant's submission of copies of unpublished U.S. applications does not constitute a waiver of the confidentiality of such applications. As such, **Applicant requests that any copies of unpublished US applications submitted herewith be excluded from the file wrapper pursuant to 37 C.F.R. §1.14.**

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If the form listing the cited references or PTO-892 from a prior application is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is prior art, or is or is considered to be, material to patentability as defined in §1.56.

Applications that are listed on the accompanying form listing the cited references as related by priority are related by priority claim under 35 USC §120. Pursuant to 37 CFR §1.98(d), no copies of cited art in a previous application(s) to which priority was claimed need be submitted. Applicant is providing copies of the form listing the cited references and/or 892 forms from these cases.

X I. This statement qualifies as a no-fee Information Disclosure Statement under 37 C.F.R. §1.97(b) or otherwise because to the knowledge of the undersigned attorney it is being filed (check all that apply):

- ☐ (1) within 3 months of the filing date of the application (other than a CPA); or
- ☐ (2) within 3 months of entry of the national stage; or
- X (3) before the mailing of a first Office Action on the merits;
- ☐ (4) before the mailing of a first Office Action after the filing of a request for continued examination (RCE) under §1.114;
- ☐ (5) as part of a continued prosecution application (CPA); or
- ☐ (6) during the period of a suspension of action for a CPA under 37 C.F.R. §1.103(b).

☐ II. This statement is believed to require a fee or the submission of a certification under 37 C.F.R. §1.97 (c) or otherwise. If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application (other than CPA); (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; (3) the mailing of a first Office Action on the merits; (4) the mailing of a first Office Action after the filing of a request for continued examination under §1.114; or (5) after the filing of a request for a continued prosecution application, but before the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311 or an action that otherwise closes prosecution in the application, then:

- ☐ (1) a certification as specified in §1.97(e) is provided below; or
- ☐ (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

____ **III. 37 C.F.R. §1.97(d).** If this statement is being filed after the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application, but before payment of the issue fee, then:

- ____ (1) a certification as specified in §1.97(e) is completed below; and
____ (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with payment of other papers filed together with this statement.

X **IV. Fee Authorization.** If any fee is due for consideration of this Information Disclosure Statement and full payment has not been submitted herewith, regardless of which boxes have been checked above, the Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 22-0350. The Commissioner is hereby authorized to credit any overpayment associated with this communication to Deposit Account No. 22-0350.

If paragraph II.1 or III is checked, also check one of the paragraphs below

____ I hereby certify, under 37 CFR §1.97(e)(1), that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the date of the filing of this information disclosure statement.

____ This communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

____ I hereby certify, under 37 CFR §1.97(e)(2), that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

For the purpose of this certification, Applicant considers the PCT International Search Authority to constitute a foreign patent office.

If this Information Disclosure Statement has been submitted without the appropriate box checked, Applicant requests that this Information Disclosure Statement be considered nevertheless if it is timely submitted under any of the provisions of 37 C.F.R. §1.97 or otherwise. Finally, if any petition is necessary to ensure consideration of this Information Disclosure Statement, Applicant requests that this be treated as such a petition.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: May 25, 2005

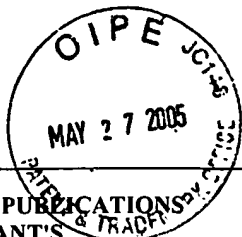
By: _____

Walter J. Steinkraus

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LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT (Use several sheets if necessary)	ATTY DOCKET NO.: S63.2H-11462-US01	APPLICATION NO.: 10/772477
	APPLICANT: Robert Burgmeier, Richard Goodin, Joseph Delaney Jr, Larry Peterson	
	FILING DATE: February 5, 2004	GROUP: 1772

REFERENCE DESIGNATION			U.S. PATENT AND PUBLISHED APPLICATION DOCUMENTS			
EXAM'S INIT.		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE IF APPROPRIATE
	AA	5,316,706	5/31/1994	Muni et al.	264/25	
	AB					
	AC					
	AD					
	AE					
	AF					
	AG					
	AH					
	AI					
	AJ					
	AK					
	AL					

FOREIGN PATENT DOCUMENTS				
		DOCUMENT NUMBER	DATE	COUNTRY
	BA	WO 03/051421	6/26/2003	WO
	BB	EP 0 376 656	7/4/1990	Europe
	BC	JP 2003062081 A (ASAHI INTECH KK)	3/4/2003	Japan
	BD			
	BE			

OTHER ART (Including Author, Title, Date, Pertinent Pages, Ect.)			
	CA		
	CB		
	CC		

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.